

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JURJITA VAICAITIENE, on behalf of
herself and others similarly
situated,

No. 04 Civ. 9125
(RMB) (THK)

Plaintiff,

-against-

PARTNERS IN CARE, INC.; AND
VISITING NURSE SERVICE OF NEW YORK,
INC.;

**DECLARATION OF
KARL J. STOECKER
REGARDING MAILING OF
NOTICE AND IN
SUPPORT OF FINAL
APPROVAL OF
SETTLEMENT**

Defendants.

1. I am the principal of the Law Offices of Karl J. Stoecker, counsel to plaintiffs in the above-captioned collective action. By Order dated April 14, 2008, the Court: (i) preliminarily approved a settlement in this action finding that it appears to be fair, adequate and reasonable; (ii) approved the form and content of a Notice of Collective Action Settlement ("the Notice"); and (iii) directed that the foregoing Notice be mailed to each opt-in plaintiff at the last known address available to Plaintiff's Counsel.

2. In accordance with the April 14, 2008, Order, the foregoing Notice was mailed to all plaintiff-opt-ins on or about April 18, 2008 by First Class mail, return service

requested. The Notice explained the terms of the settlement, provided the address and telephone number of plaintiff's counsel for inquiries and specified a procedure for objecting to the settlement, which included mailing a copy of any objection to the Clerk of the Court on or before May 19, 2008.

3. The reaction to the settlement has been overwhelmingly positive. Annexed hereto is a copy of the docket sheet retrieved from PACER this date which reflects that no objections to the settlement have been filed.

4. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
May 22, 2008



Karl J. Stoecker

ECF, MAGCONSENT, REOPEN

U.S. District Court
United States District Court for the Southern District of New York (Foley Square - Suspense)
CIVIL DOCKET FOR CASE #: 2:04-cv-09125-THK

Vaicaitiene v. Partners in Care, Inc. et al
Assigned to: Magistrate Judge Theodore H. Katz
Cause: 28:1331 Fed. Question: Other

Date Filed: 11/18/2004
Jury Demand: None
Nature of Suit: 710 Labor: Fair Standards
Jurisdiction: Federal Question

Plaintiff

Jurjita Vaicaitiene
on behalf of herself and all others similarly situated

represented by **Karl J. Stoecker**
Law Offices of Karl J. Stoecker
275 Madison Avenue
New York, NY 10016
212-818-0080
Fax: (212) 818-9055
Email: kjs@kjslawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Partners in Care, Inc.

represented by **Kathy Hirata Chin**
Cadwalader, Wickersham & Taft LLP
(NYC)
One World Financial Center
New York, NY 10281
212-504-6542
Fax: 212-504-6666
Email: kathy.chin@cwt.com
ATTORNEY TO BE NOTICED

Defendant

Visiting Nurse Service of New York, Inc.

represented by **Kathy Hirata Chin**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
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11/18/2004	<u>1</u>	COMPLAINT against Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (Filing Fee \$ 150.00, Receipt Number 526308) Document filed by Jurjita Vaicaitiene.(laq,) Additional attachment(s) added on 11/30/2004 (laq,). (Entered: 11/19/2004)
11/18/2004		SUMMONS ISSUED as to Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (laq,) (Entered: 11/19/2004)
11/18/2004		Magistrate Judge Theodore H. Katz is so designated. (laq,) (Entered: 11/19/2004)
11/18/2004		Case Designated ECF. (laq,) (Entered: 11/19/2004)
12/15/2004	<u>2</u>	STIPULATION AND ORDER: defendants time to answer or move against the complaint is extended to 2/4/05. (Signed by Judge Richard M. Berman on 12/15/04) (db,) (Entered: 12/15/2004)
12/15/2004		Set Answer Due Date purs. to <u>2</u> Stipulation and Order as to Partners in Care, Inc. answer due on 2/4/2005; Visiting Nurse Service of New York, Inc. answer due on 2/4/2005. (db,) (Entered: 12/15/2004)
01/10/2005	<u>3</u>	ORDER OF DISCONTINUANCE without prejudice and without costs; provided that within 30 days, plaintiffs may, apply for restoration.... (Signed by Judge Richard M. Berman on 1/10/05) (jf,) (Entered: 01/13/2005)
01/12/2005	<u>5</u>	ENDORSED LETTER addressed to Judge Berman from Kathy H. Chin dated 1/12/05 re: request that defendants' time to respond to the complaint be extended. Conference on 1/14/05 at 9:30 a.m. (Signed by Judge Richard M. Berman on 1/12/05) (yv,) (Entered: 01/14/2005)
01/13/2005	<u>4</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Karl J. Stoecker dated 1/11/05 re: Counsel for plaintiff writes to request restoration of this action to the Court calendar. 1/14/05 @9:30. So Ordered. (Signed by Judge Richard M. Berman on 1/13/05) (jco,) (Entered: 01/13/2005)
01/21/2005	<u>6</u>	NOTICE of Appearance by Kathy Hirata Chin on behalf of Partners in Care, Inc., Visiting Nurse Service of New York, Inc. (Chin, Kathy) (Entered: 01/21/2005)
01/21/2005	<u>7</u>	RULE 7.1 DISCLOSURE STATEMENT. Document filed by Partners in Care, Inc., Visiting Nurse Service of New York, Inc..(Chin, Kathy) (Entered: 01/21/2005)
02/03/2005	<u>8</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Kathy Chin dated 2/2/05 re: counsel for dfts request to file a motion to dismiss or alternatively stay these proceedings. Pl. to respond with brief (2-3) pp letter by 2/10/05. Counsel thereafter to set conference with court deputy. There is not stay in the interim. Take up discovery issues with the Magistrate. (Signed by Judge Richard M. Berman on 2/3/05) (dle,) (Entered: 02/04/2005)

02/09/2005	<u>9</u>	STIPULATION AND ORDER: all defendants time to answer or move against the complaint is extended to 2/28/05. (Signed by Judge Richard M. Berman on 2/8/05) (db,) (Entered: 02/10/2005)
02/09/2005		Set Answer Due Date purs. to <u>9</u> Stipulation and Order as to Partners in Care, Inc. answer due on 2/28/2005; Visiting Nurse Service of New York, Inc. answer due on 2/28/2005. (db,) (Entered: 02/10/2005)
02/25/2005	<u>10</u>	STIPULATION AND ORDER (Final); dfts time to answer or move agaisnt the complaint shall be, and hereby is extended to 3/7/05; final extension. (Signed by Judge Richard M. Berman on 2/25/05) (pl,) Modified on 2/28/2005 (pl,). (Entered: 02/28/2005)
02/25/2005		Set Answer Due Date purs. to <u>10</u> Stipulation and Order as to Partners in Care, Inc. answer due on 3/7/2005; Visiting Nurse Service of New York, Inc. answer due on 3/7/2005. (pl,) (Entered: 02/28/2005)
03/02/2005	<u>11</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Karl J. Stoecker dated 2/9/05 re: requesting permission to file motion to dismiss. Request to file motion to dismiss is respectfully denied at this time (without prejudice) in view of the 2d Circuit ruling in Coke, 376 F.3d 118 (2d Cir. 2004); see also Antwi, 349 F. Supp 2d 663 (S.D.N.Y.) (Signed by Judge Richard M. Berman on 3/2/05) (kw,) (Entered: 03/04/2005)
03/03/2005	<u>12</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Kathy H. Chin dated 3/1/05 re: bringing to the Court's attention a scheduling issue. See Court's most recent (3/2/05) endorsement. (Signed by Judge Richard M. Berman on 3/3/05) (kw,) (Entered: 03/04/2005)
03/03/2005	<u>15</u>	ENDORSED LETTER addressed to Judge Richard M. Berman from Karl J. Stoecker dated 2/9/05 re: request to file motion to dismiss is respectfully denied at this time (without prejudice) in view of the 2d Circuit ruling in Coke, 376 F. 3d 118(2d Cir. 2004); see also Antwi, 349 F. Supp 2d 663 (S.D.N.Y.). (Signed by Judge Richard M. Berman on 3/2/05) (sac,) (Entered: 03/09/2005)
03/07/2005	<u>13</u>	ANSWER to Complaint. Document filed by Partners in Care, Inc., Visiting Nurse Service of New York, Inc..(Chin, Kathy) (Entered: 03/07/2005)
03/07/2005	<u>14</u>	AFFIDAVIT OF SERVICE. Document filed by Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (Chin, Kathy) (Entered: 03/07/2005)
03/15/2005	<u>16</u>	ENDORSED LETTER addressed to Judge Berman from Karl Stoecker dated 3/14/05: re plntf's request for a pre motion conferencere: conference on 3/30/05 at 10:30. Deft to respond by 3/21/05. (Signed by Judge Richard M. Berman on 3/15/05) (cd,) (Entered: 03/17/2005)
04/14/2005	<u>17</u>	STIPULATION AND ORDER; Plaintiff shall serve and file her papers in support of motion for notice to similarly situated individuals on or before 04/20/05; Defendants' papers in opposition to the motion shall be served

		and filed on or before 5/9/05; plaintiffs reply papers, if any, shall be served and filed on or before 05/16/05; (Signed by Judge Richard M. Berman on 4/14/05) (djc,) (Entered: 04/18/2005)
04/19/2005		***REJECTION OF ATTEMPTED PAPER FILING IN ECF CASE. The following document(s) notice of change of address by Mr. Karl J. Stoecker, was rejected by the Clerk's Office and must be FILED ELECTRONICALLY on the Court's ECF System. (snu,) (Entered: 05/02/2005)
04/22/2005	<u>18</u>	FILING ERROR - WRONG DOCUMENT TYPE SELECTED FROM MENU - FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals. Document filed by Jurjita Vaicaitiene. Return Date set for 5/16/2005 09:30 AM. (Stoecker, Karl) Modified on 2/6/2006 (dlw). (Entered: 04/22/2005)
04/22/2005	<u>19</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial. Referred to Magistrate Judge Theodore H. Katz. (Signed by Judge Richard M. Berman on 4/22/05) (yv,) (Entered: 04/26/2005)
05/06/2005	<u>20</u>	NOTICE of Change of Address by Karl J. Stoecker on behalf of Jurjita Vaicaitiene. New Address: Law Offices of Karl J. Stoecker, 18 East 41st Street, New York, New York, USA 10017, 212-818-0080. (Attachments: # <u>1</u> (Stoecker, Karl)) (Entered: 05/06/2005)
05/06/2005	<u>21</u>	FILING ERROR - WRONG DOCUMENT TYPE SELECTED FROM MENU - FIRST MOTION to Certify Class. Document filed by Jurjita Vaicaitiene. (Stoecker, Karl) Modified on 5/13/2005 (kg). (Entered: 05/06/2005)
05/06/2005	<u>22</u>	MOTION to Certify Class. Document filed by Jurjita Vaicaitiene. (Stoecker, Karl) (Entered: 05/06/2005)
05/06/2005	<u>23</u>	FILING ERROR - WRONG DOCUMENT TYPE SELECTED FROM MENU - MOTION to Certify Class. Document filed by Jurjita Vaicaitiene. (Stoecker, Karl) Modified on 5/13/2005 (kg). (Entered: 05/06/2005)
05/13/2005		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DOCUMENT TYPE ERROR. Note to Attorney Karl Stoecker to RE-FILE Document <u>21</u> FIRST MOTION to Certify Class, <u>23</u> MOTION to Certify Class. Use the document type Memorandum of Law in support of Motion and Declaration in Support of Motion found under the document list Responses and Replies. (kg) (Entered: 05/13/2005)
05/17/2005	<u>24</u>	MEMORANDUM OF LAW in Support re: <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals.. Document filed by Jurjita Vaicaitiene. (Stoecker, Karl) (Entered: 05/17/2005)

05/18/2005	<u>25</u>	STIPULATION AND ORDER, Set Deadlines/Hearing as to <u>22</u> MOTION to Certify Class: Responses due by 5/20/2005; Replies due by 5/27/2005. (Signed by Judge Theodore H. Katz on 5/9/05) (sac,) (Entered: 05/18/2005)
05/20/2005	<u>26</u>	MEMORANDUM OF LAW in Opposition re: <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals.. Document filed by Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (Chin, Kathy) (Entered: 05/20/2005)
05/20/2005	<u>27</u>	DECLARATION of Kathy H. Chin in Opposition re: <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals.. Document filed by Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F)(Chin, Kathy) (Entered: 05/20/2005)
05/20/2005	<u>28</u>	AFFIDAVIT of Jay M. Conolly in Opposition re: <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals.. Document filed by Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(Chin, Kathy) (Entered: 05/20/2005)
05/20/2005	<u>29</u>	AFFIDAVIT of Marian Haas in Opposition re: <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals.. Document filed by Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (Chin, Kathy) (Entered: 05/20/2005)
05/27/2005	<u>30</u>	MEMORANDUM OF LAW in Support re: <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals.. Document filed by Jurjita Vaicaitiene. (Stoecker, Karl) (Entered: 05/27/2005)
07/06/2005	<u>31</u>	MEMORANDUM OPINION AND ORDER #91823 that the Court authorizes plaintiff to send notice of the pending collective action to the class of similarly situated potential plaintiffs, defined in the Opinion and Order. (Signed by Judge Theodore H. Katz on 7/6/05) (pl,) (Entered: 07/07/2005)
08/05/2005	<u>32</u>	ENDORSED LETTER addressed to Judge Katz from Kathy H. Chin dated 8/4/05 re: request that the Court extend defendants' time to provide the required listing of names and addresses to 8/12/05. The request is granted (Signed by Judge Theodore H. Katz on 8/5/05) (yv,) (Entered: 08/08/2005)
10/05/2005		Minute Entry for proceedings held before Judge Theodore H. Katz : Pretrial Conference held on 10/5/2005. (cd,) (Entered: 10/11/2005)
11/29/2005	<u>33</u>	TRANSCRIPT of proceedings held on 10/5/05 before Judge Theodore H. Katz. (jbe,) (Entered: 11/29/2005)
01/12/2006	<u>34</u>	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Karl Stoecker dated 1/11/06 re: counsel for plaintiffs request to postpone the motion for class certification until 2/6/06. The motion shall

		be filed by 2/6/06. The response shall be filed by 3/1/06. Any reply shall be filed by 3/10/06. (Signed by Judge Theodore H. Katz on 1/12/06) (dle,) (Entered: 01/17/2006)
01/12/2006		Set/Reset Deadlines: Motions due by 2/6/2006. Replies due by 3/10/2006. Responses due by 3/1/2006 (dle,) (Entered: 01/17/2006)
01/19/2006	<u>35</u>	STIPULATED PROTECTIVE ORDER...regarding procedures to be followed that shall govern the handling of confidential material.... (Signed by Magistrate Judge Theodore H. Katz on 1/19/2006) (lb,) (Entered: 01/20/2006)
01/20/2006	<u>36</u>	STIPULATION REGARDING FILING OF CONSENT FORMS: Plaintiff's counsel shall compile and bind all consent forms and corresponding mailing envelopes mailed in response to the notice sent in this action and file the binder with the Clerk of Court, together with an affidavit listing all such consent forms, as a single document on or before 1/20/2006. (Signed by Magistrate Judge Theodore H. Katz on 1/20/2006) (lb,) (Entered: 01/23/2006)
01/20/2006	<u>38</u>	DECLARATION of Karl Stoecker regarding Opt-ins (3 Volumes). Document filed by Jurjita Vaicaitiene. (cd,) (Entered: 01/23/2006)
01/23/2006	<u>37</u>	ADMINISTRATIVE ORDER; dismissing as moot, <u>22</u> Motion to Certify Class. (Signed by Judge Richard M. Berman on 1/23/06) (sac,) (Entered: 01/23/2006)
01/24/2006	<u>39</u>	STIPULATION AND QUALIFIED PROTECTIVE ORDER of Private Health information as defined by the Health Insurance Portability and Accountability Act as amended on page 10a. (Signed by Judge Richard M. Berman on 1/24/06) (pl,) Modified on 1/25/2006 (pl,). (Entered: 01/25/2006)
02/06/2006		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DOCUMENT TYPE ERROR. Note to Attorney Karl Stoecker to RE-FILE Document <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals. Use the document type AFFIDAVIT IN SUPPORT OF MOTION found under the document list RESONSES AND SUPPLIES. (dlw) (Entered: 02/06/2006)
02/06/2006	<u>40</u>	AFFIDAVIT of Jurjita Vaicaitiene in Support re: <u>18</u> FIRST MOTION for Pre-Trial Notice to "similarly situated" individuals.. Document filed by Jurjita Vaicaitiene. (Stoecker, Karl) (Entered: 02/06/2006)
07/21/2006	<u>41</u>	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Kathyb H. Chin dated 7/18/2006 re: to by way up date, the Second Circuit has not yet issued a ruling in the Coke matter, which was remanded to that Court by the Supreme Court in January of this year. It is my understanding the the last amicus briefs were submitted on or about June 21, 2006. As no oral argument was scheduled, the matter has been sub judice since that time. ENDORSEMENT: (Signed by Judge Theodore H. Katz on 7/19/2006) (jmi,) (Entered: 07/24/2006)

09/20/2006	<u>42</u>	AMENDED SCHEDULING ORDER: pLAINTIFF'S Motion FOR CLASS CERTIFICATION due by 2/28/2007. Responses due by 3/29/2007 Replies due by 4/13/2007. CLASS-RELATED Discovery due by 1/31/2007. (Signed by Judge Theodore H. Katz on 9/21/06) (djc,) (Entered: 09/21/2006)
11/17/2006	<u>43</u>	DECLARATION of Karl J. Stoecker Regarding Second Batch of Opt-Ins.. Document filed by Jurjita Vaicaitiene. (djc,) (Entered: 11/20/2006)
01/23/2007	<u>44</u>	ENDORSED LETTER addressed to Judge Katz from Kathy Chin dated 1/18/07 re request that date for completion of class related discovery be re set for a date 45 days after the date of the Supreme Court decision in Coke: this action shall be placed on the Court's suspense docket. Promptly upon the Supreme Court's decision in the Coke case, the parties shall apprise the court of their intentions. (Signed by Judge Theodore H. Katz on 1/23/07) (cd) (Entered: 01/24/2007)
06/29/2007	<u>45</u>	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Kathy H. Chin dated 6/28/07 re: request the opportunity to continue aforementioned discussions and report to the Court no later than 7/13/07. ENDORSEMENT: the request is GRANTED.Status Report due by 7/13/2007. (Signed by Judge Theodore H. Katz on 6/29/07) (db) (Entered: 07/02/2007)
07/16/2007	<u>46</u>	ENDORSED LETTER addressed to Judge Theodore H. Katz from Kathy H. Chin dated 7/13/07 re: a request for the following schedule: counsel will develop a possible settlement vehicle for resolution on or before 8/10/2007 and if counsel are unable to achieve agreement as set forth above, they will on or before 8/10/2007 present to the court a proposed schedule for completion of discovery and motions relating to the viability of this proceeding as a collective/class action. ENDORSEMENT: SO ORDERED. If the Court can be of help with settlement, contact chambers. (Signed by Judge Theodore H. Katz on 7/16/07) (kco) (Entered: 07/17/2007)
08/13/2007	<u>47</u>	ENDORSED LETTER addressed to Judge Theodore H. Katz from Kathy H. Chin dated 8/10/07 re: Counsel request that settlement discussions be permitted to continue, and counsel to report to the Court no later than 8/31/07. ENDORSEMENT: Granted. (Signed by Judge Theodore H. Katz on 8/10/07) (cd) (Entered: 08/14/2007)
09/19/2007		Minute Entry for proceedings held before Judge Theodore H. Katz : Settlement Conference held on 9/19/2007. (tro) (Entered: 09/21/2007)
03/17/2008	<u>48</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Consent under 28 USC 636(c) for all purposes (including trial). Referred to Magistrate Judge Theodore H. Katz. (Signed by Judge Richard M. Berman on 3/17/08) (cd) (Entered: 03/17/2008)

03/21/2008	<u>49</u>	CONSENT TO JURISDICTION BY A US MAGISTRATE JUDGE by Jurjita Vaicaitiene, Partners in Care, Inc., Visiting Nurse Service of New York, Inc.. (Case No Longer Referred to Magistrate Judge) CASE ASSIGNED to Magistrate Judge Theodore H. Katz. (Signed by Judge Richard M. Berman on 3/21/08) (tro) (Entered: 03/21/2008)
04/14/2008	<u>50</u>	ORDER GRANTING PRELIMINARY APPROVAL OF COLLECTIVE ACTION SETTLEMENT, the Court grants preliminary approval of the settlement as set forth in the Stipulation. The settlement appears to be fair, adequate and reasonable. The Court approves, as to form and content, the Notice annexed hereto as Exhibit 1. The Notice shall be mailed to each Opt-In Plaintiff at the last known mailing address available to Plaintiff's Counsel, and as further set forth in this document. (Signed by Magistrate Judge Theodore H. Katz on 4/14/08) (cd). (Entered: 04/15/2008)

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